



**FEDERAL ELECTION COMMISSION**  
Washington, DC 20463

May 25, 2021

**VIA FIRST CLASS MAIL**

Mensah Real Estate Property, LLC  
5070 Beverly Glen Village Ln  
Apt. D  
Norcross, GA 30092

RE: MUR 7900  
Mensah Real Estate Property, LLC  
Stephen Cannon

Dear Sir/Madam:

On April 15, 2021, the Federal Election Commission found that there is reason to believe that Mensah Real Estate Property, LLC and Stephen Cannon knowingly and willfully violated 52 U.S.C. § 30102(b)(3) of the Federal Election Campaign Act of 1971 (the “Act”) by commingling Committee funds with their own. This finding was based on information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. *See* 52 U.S.C. § 30109(a)(2). The Factual and Legal Analysis, which formed a basis for the Commission’s findings, is enclosed for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission’s consideration of this matter. Please submit such materials to the Office of the General Counsel within 15 days of receipt of this notification. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. *See* 52 U.S.C. § 30109(a)(4).

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519.

If you are interested in pursuing pre-probable cause conciliation, you should make such a request by letter to the Office of the General Counsel. *See* 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into in order to complete its investigation of

the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been delivered to the respondent. Requests for extensions of time are not routinely granted. Requests must be made in writing at least five days prior to the due date of the response and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days. Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at [http://www.fec.gov/em/respondent\\_guide.pdf](http://www.fec.gov/em/respondent_guide.pdf).

Please be advised that although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.<sup>1</sup>

This matter will remain confidential in accordance with 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Kimberly Hart, the attorney assigned to this matter, at (202) 694-1618 or khart@fec.gov.

On behalf of the Commission,



Shana M. Broussard  
Chair

Enclosure  
Factual and Legal Analysis

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<sup>1</sup> The Commission has the statutory authority to refer knowing and willful violations of the FECA to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. 52 U.S.C. § 30107(a)(9).

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

## I. INTRODUCTION

This matter was generated based on information ascertained by the Federal Election Commission (the “Commission”) in the normal course of carrying out its supervisory responsibilities.<sup>1</sup> In a memo filed with its 2018 April Quarterly Report, Black Americans for a Better Future and Chris Marston in his official capacity as treasurer (the “Committee”) asserts that it was the victim of a “wire transfer scheme” with regard to unauthorized disbursements of Committee funds totaling \$57,666.67 made to Mensah Real Estate Property, LLC and Stephen Cannon.

The Reports Analysis Division (“RAD”) referred this matter to the Office of General Counsel (“OGC”) for potential violations of the Federal Election Campaign Act of 1971, as amended (the “Act”), and the above-named Respondents were notified of this referral. Based on available information, the Commission finds reason to believe that Mensah Real Estate Property, LLC, and Stephen Cannon knowingly and willfully violated 52 U.S.C. § 30102(b)(3) by commingling Committee funds with their own.

## II. FACTUAL AND LEGAL ANALYSIS

## A. Background

The Committee is an independent expenditure-only political committee registered with the Commission.<sup>2</sup> On April 12, 2018, the Committee filed its 2018 April Quarterly Report and

<sup>1</sup> See 52 U.S.C. § 30109(a)(2).

<sup>2</sup> See Black Americans for a Better Future, FEC Form 1, *Statement of Organization* (amend. Sept. 16, 2014).

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disclosed four disbursements—\$8,000 on February 9, 2018, \$18,667.67 on February 12, 2018, \$6,000 on February 15, 2018, and \$25,000 on February 22, 2018—totaling \$57,666.67 made to two recipients, Mensah Real Estate Property, LLC, and Stephen Cannon.<sup>3</sup> The Committee labeled each of the disbursements as a “fraudulent wire transfer.” The Committee also disclosed three separate receipts from Mensah Real Estate Property, LLC—\$6,000, \$8,000, and \$18,666.67, all received March 27, 2018—totaling \$32,666.67.<sup>4</sup> The Committee labeled each of these receipts as “recovery of fraudulent wire transfer.”<sup>5</sup> The Committee attached a memo to its Report that stated:

The Committee was the victim of a wire fraud scheme during the reporting period. Four wire transfers were made to two recipients during the period . . . Funds from three of the transfers to one of the recipients were recovered during the reporting period . . . The Committee continues to work with law enforcement to recover the funds from the final fraudulent transfer. The Committee has also adopted additional internal controls to prevent similar fraudulent transactions in the future. All transactions have been completely reported and the Committee's bank balance reconciles to the closing cash on hand on this report.<sup>6</sup>

On July 12, 2018, RAD sent an RFAI to the Committee that requested clarification regarding the apparent unauthorized disbursement of Committee funds.<sup>7</sup> On August 16, 2018, the Committee filed an amended 2018 April Quarterly Report.<sup>8</sup> The amended Report did not

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<sup>3</sup> Referral at 1 (Oct. 11, 2018), Attach. 2; *see also* Black Americans for a Better Future, FEC Form 3X, *Report of Receipts and Disbursements* (Apr. 12, 2018). The first three disbursements were made to Mensah Real Estate Property, LLC, and the fourth \$25,000 disbursement was made to Stephen Cannon.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> Referral at 2; Black Americans for a Better Future, 2018 April Quarterly Report.

<sup>7</sup> Referral at 2; Black Americans for a Better Future, RFAI (July 12, 2018).

<sup>8</sup> Black Americans for a Better Future, FEC Form 3X, *Report of Receipts and Disbursements* (amend. Aug. 16, 2018).

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disclose any changes to the apparent unauthorized transactions, but included memo text that stated, in part:

This amendment responds to a request for additional information dated July 12, 2018. The Committee included memo text with its original report providing a complete explanation for the first two items related to fraudulent wire transfers and believes that clarifying information is complete with regard to the fraud perpetrated on the Committee and its work with law enforcement to recover the fraudulent funds and adopt improved internal controls to combat future fraud.<sup>9</sup>

On August 23, 2018, RAD contacted the Committee's treasurer to inform him that the matter could be referred to OGC for further action and invited the Committee to submit further information regarding the unauthorized use of Committee funds.<sup>10</sup> The Committee's treasurer indicated he had no further information to offer.<sup>11</sup> In response to the notification to the referral, counsel for the Committee sent an email to the Commission stating that the Committee had obtained a judgment from a Virginia Circuit Court against Mensah in a forfeiture action seeking the return of the outstanding \$25,000, and that as soon as the Committee received the funds, it would amend its disclosure reports to accurately reflect receipt of the funds.<sup>12</sup> The email included a copy of an April 2, 2019, court order directing that \$25,000 be disbursed to the Committee from a holding account.<sup>13</sup> To date, the Committee has not amended its disclosure reports to reveal additional reimbursements for the funds.

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<sup>9</sup> *Id.*; referral at 2.

<sup>10</sup> Referral at 2; Attach. 3.

<sup>11</sup> *Id.*

<sup>12</sup> Email from Steve Roberts, counsel to Committee, to CELA Staff (May 24, 2019, 4:31 P.M. EDT).

<sup>13</sup> *Id.*

## B. Legal Analysis

The Act requires a committee, through its treasurer, to keep an accurate account of receipts, disbursements, and cash-on-hand balances.<sup>14</sup> To accomplish this, the Act imposes on committees a series of recordkeeping and reporting requirements to be executed by the committee's treasurer. The Act provides that committees must record the name and address of every person to whom a disbursement is made, and the date, amount, and purpose of the disbursement, and retain records (*e.g.*, receipt, cancelled check, invoice) related to each disbursement in excess of \$200.<sup>15</sup>

The Act also requires that Committees file disclosure reports with the Commission. Committee reports must disclose: (1) the amount of cash-on-hand at the start of the reporting period; (2) the total amount of receipts; (3) the identity of any person who contributes more than \$200 in the election cycle, and the date and amount of the contribution(s); (4) the total amount of disbursements; (5) the identity of any person to whom the committee disburses over \$200 during the election cycle, together with the date, amount, and purpose of the expenditure(s); and (6) the amount of cash-on-hand at the close of the reporting period.<sup>16</sup>

The Act also states that a committee's funds "shall be segregated from, and may not be commingled with, the personal funds of any individual."<sup>17</sup> A violation of the Act is knowing and willful when the "acts were committed with full knowledge of all the relevant facts and a

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<sup>14</sup> 52 U.S.C. §§ 30102(c), 30104(b); 11 C.F.R. §§ 104.3, 104.14(d).

<sup>15</sup> 52 U.S.C. § 30102(c)(5); 11 C.F.R. § 102.9(b)(1)-(2).

<sup>16</sup> 52 U.S.C. § 30104(b)(1)-(6); 11 C.F.R. § 104.3(a)-(b); *see also* Fed. Election Comm'n, Form 3X, *Report of Receipts and Disbursements for an Authorized Committee* (May 2016).

<sup>17</sup> 52 U.S.C. § 30102(b)(3); 11 C.F.R. § 102.15.

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recognition that the action is prohibited by law.”<sup>18</sup> This does not require proving knowledge of the specific statute or regulation the respondent allegedly violated.<sup>19</sup> Rather, it is sufficient to demonstrate that a respondent “acted voluntarily and was aware that his conduct was unlawful.”<sup>20</sup> This awareness may be shown through circumstantial evidence, such as a “defendant’s elaborate scheme for disguising” his or her actions, or other “facts and circumstances from which the jury reasonably could infer [the defendant] knew the conduct was unauthorized and illegal.”<sup>21</sup>

It appears that Mensah Real Estate Property, LLC, and Stephen Cannon commingled Committee funds with their own. Neither Mensah Real Estate Property, LLC, nor Stephen Cannon responded to the notification of this referral. Although the Committee states that it has received reimbursements from Mensah Real Estate Property, LLC, it does not appear that the Committee has received reimbursement from Stephen Cannon for the remaining \$25,000. Accordingly, the Commission finds reason to believe that Mensah Real Estate Property, LLC, and Stephen Cannon knowingly and willfully violated 52 U.S.C. §§ 30102(b)(3) by commingling Committee funds with their own.

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<sup>18</sup> 122 Cong. Rec. H3778 (daily ed. May 3, 1976).

<sup>19</sup> See *United States v. Danielczyk*, 917 F. Supp. 2d 573, 579 (E.D. Va. 2013) (citing *Bryan v. United States*, 524 U.S. 184, 195 & n.23 (1998) (holding that, to establish that a violation is willful, the government needs to show only that the defendant acted with knowledge that her conduct was unlawful, not knowledge of the specific statutory provision violated)).

<sup>20</sup> *Id.*

<sup>21</sup> *United States v. Hopkins*, 916 F.2d 207, 213-15 (5th Cir. 1990) (internal quotation marks omitted). As the *Hopkins* court noted, “It has long been recognized that ‘efforts at concealment [may] be reasonably explainable only in terms of motivation to evade’ lawful obligations.” *Id.* at 214 (quoting *Ingram v. United States*, 360 U.S. 672, 679 (1959)).